

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 18-110(1) (DWF/KMM)

Civil No. 22-1737 (DWF)

Respondent-Plaintiff,

v.

**MEMORANDUM
OPINION AND ORDER**

Mark Anthony Eggerson,

Petitioner-Defendant.

This matter is before the Court on Petitioner-Defendant Mark Anthony Eggerson’s motion to vacate the judgment under 28 U.S.C. § 2255. (Doc. No. 214.) This motion is based on *United States v. Owen*, 51 F.4th 292 (8th Cir. 2022), where the Eighth Circuit held that Minnesota’s definition of cocaine sweeps more broadly than the definition under federal law and therefore a conviction for the sale of cocaine under Minnesota law does not count as a “serious drug offense” under the Armed Career Criminal Act (“ACCA”). *Id.* at 296. Eggerson argues that because the four predicate offenses used to enhance his sentence involved the sale of cocaine under Minnesota law, those were not valid predicates and his sentence must be set aside, corrected, or vacated. Eggerson’s motion is timely as it was filed within one year after the date his conviction became final. § 2255(f)(1). The Government does not oppose the motion and agrees that Eggerson should be resentenced. (Doc. No. 224.) Because Eggerson’s sentence enhancement improperly relied on his prior cocaine convictions under Minnesota law, the Court will grant Eggerson’s motion.

IT IS THEREFORE ORDERED that:

1. Defendant Mark Anthony Eggerson's motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 (Doc. No. [214]) is **GRANTED**.

2. The United States shall produce Eggerson for a hearing in which the Court will resentence Eggerson. The Court will set a date for resentencing consistent with this Order.

Dated: June 30, 2023

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge